

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONT HEARD, RICHARD BALDWIN,
and JEROME SMITH,

Case No. 16-14367

Plaintiffs,

Honorable Nancy G. Edmunds

v.

RICK SNYDER, HEIDI WASHINGTON, and
MICHAEL EAGEN,

Defendants.

**ORDER AND OPINION TRANSFERRING THE APPLICATION TO PROCEED
WITHOUT PREPAYING FEES OR COSTS ON APPEAL [66] TO THE UNITED
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Plaintiffs, Lamont Heard, Richard Baldwin, and Jerome Smith, (collectively "Plaintiffs") filed a request to proceed on appeal *in forma pauperis* if their motions for reconsideration (Dkt. 58) and for relief from judgment (Dkt. 60-62) were denied. The Court denied Plaintiffs' motions for reconsideration and for relief from judgment on June 4, 2018. (Dkt. 70.) On June 13, 2018, Plaintiffs filed an amended notice of appeal. (Dkt. 71.)

Plaintiffs appeal the Court's opinion and order adopting the magistrate judge's report and recommendation which denied Plaintiffs' motion for preliminary injunction, and dismissed the case. (Dkt. 56.) Plaintiffs additionally appeals the Court's opinion and order denying Plaintiffs' motion for reconsideration, denying Plaintiffs' motion for relief from judgment, and denying Plaintiffs' motion for an emergency hearing. (Dkt. 70.) For the reasons that follow, the Court orders that the motion for leave to appeal *in forma pauperis* be transferred to the United States Court of Appeals for the Sixth Circuit.

A notice of appeal generally "confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal." *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985) (citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curium)); see also *Workman v. Tate*, 958 F.2d 164, 167 (6th Cir. 1992). Plaintiffs' notice of appeal divests this Court of jurisdiction to consider petitioner's motion for leave to appeal *in forma pauperis*. See *Johnson v. Woods*, No. 5:12-11632, 2013 WL 557271, *2 (E.D. Mich. Feb. 13, 2013); *Glick v. U.S. Civil Service Com'n*, 567 F.Supp. 1483, 1490 (N.D. Ill. 1983); *Brinton v. Gaffney*, 560 F.Supp. 28, 29-30 (E.D. Pa. 1983). Because jurisdiction of this action was transferred from the district court to the Sixth Circuit Court of Appeals upon the filing of the notice of appeal, Plaintiffs' application to proceed *in forma pauperis* on appeal would be more appropriately addressed to the Sixth Circuit. See *Grizzell v. State of Tennessee*, 601 F.Supp. 230, 232 (M.D. Tenn. 1984), *Baker v. Perry*, No. 2-12-10424; 2012 WL 6097323, *2 (E.D. Mich. Dec. 6, 2012).

IT IS HEREBY ORDERED that the Clerk of the Court transfer Plaintiffs' application to proceed without fees and costs on appeal to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. §1631.

So ordered.

s/Nancy G. Edmunds

Nancy G. Edmunds

United States District Judge

Dated: June 18, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 18, 2018, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager